agreement be one to pay in something other than money, the law will award a money compensation for a breach. *Duerson et al. v. Bellows,* 1 Blackf. 217; *New York News Pub. Co. v. National S. S. Co.,* 148 N. Y., 39; *Perry v. Smith,* 22 Vt., 301; *Van de Vanter v. Redelsheimer,* 107 Wash., 847. The amount of money specified—not the value of the property—is the determining element. *Brooks v. Hubbard,* 3 Conn., 58. Furthermore it has been held that the intention of the parties is important in determining whether the defendant is to have the privilege of paying in money or a specified article. *Corey v. Phila. etc., Petroleum Co.,* 33 Cal., 694; *Sowers v. Earnhart,* 60 N. C., 96.

QUIETING TITLE—NATURE OF REMEDY—GROUNDS FOR RELIEF.—MAYNOR V. TYLER LAND CO., 139 S. W., 393 (Mo.)—*Held,* that in a suit to quiet title, the plaintiff is entitled to a decree, if his title be good against the defendant.

The rule stated in the leading case is supported by some other decisions. *DeNola v. Alison,* 143 Cal., 106; *Brewing Co. v. Taylor,* 204 Ill., 132. But many cases hold that in a suit to quiet title, the plaintiff must recover on the strength of his own title, and not on the weakness of his adversary's. *Land Co. v. Bigelow,* 77 Ark., 338; *Guarantee Co. v. Delta Co.,* 104 Fed., 5; *Krotz v. Lumber Co.,* 34 Ind. App., 577. An equitable title is enough as against one having neither title nor possession. *Lumber Co. v. Bailey,* 22 Ky. Law Rep., 1264. But the plaintiff can not base his suit on a mere right to specific performance *Hennefer v. Hays,* 14 Utah, 324. At least as against his vendor. *Chase v. Cameron,* 133 Cal., 231. A title based on adverse possession, good against the defendant, is sufficient. *Clemmons v. Cox,* 114 Ala., 350; *Vier v. Detroit,* 111 Mich., 646. So is a title obtained through fraud, where the grantors have not disaffirmed the transaction, and the defendant does not claim through them. *Ponce v. Long,* 38 Ind. App., 63. Most courts hold that the plaintiff must show that he is in possession. *Orton v. Smith,* 18 How., 263; *Hardin v. Jones,* 86 Ill., 313; *Haythorn v. Margerem,* 7 N. J. Eq., 324. Or that the land is unoccupied. *O'Brien v. Creitz,* 10 Kan., 202; *Lamb v. Farrell,* 21 Fed., 5. But a few decisions hold that this is unnecessary. *Lees v. Wetmore,* 58 Ia., 170; *Bausman v. Kelley,* 38 Minn., 197.

RAILROADS—TRESPASSERS ON TRACK—DUTIES OF RAILROAD.—SOUTHERN RAILROAD CO. V. CAMPBELL, 71 S. E., 934 (GA.)—*Held,* that a railroad company in the operation of its trains owes to a trespasser upon its tracks no duty, save that of not injuring him wilfully or wantonly.

A railroad track, except at public crossings or upon public highways, is the exclusive property of the railroad company; and all persons who go upon the tracks, except at such places, without the company's express or implied permission, are trespassers, and, subject to certain qualifications, do so at their own peril. *L. C. Ry. Co. v. Godfrey,* 71 Ill., 500; *Clark v. N. Y. C.,* 93 N. Y. Supp., 525. To avoid liability the company must have been simply in the exercise of ordinary care. *Remer v. Long Island Ry.,* 1 N. Y. Supp. 124. It would seem that the company's negligence must have

been such as to warrant a *presumption* of wilfullness. *W. & A. Ry. v. Meigs,* 74 Ga., 857. There is authority for the statement that mere carelessness of its employees does not render the company liable. *Union S. & T. Co. v. Goodman,* 91 Ill. App., 426; *Lando v. C. St. P. M. & O. Ry.,* 81 Minn., 279. But when employees have cause to anticipate the presence of persons on tracks the degree of care required is greatly advanced. *Southern Ry. v. Chatman,* 124 Ga., 1026. No duty has ever been held to be incumbent upon a railroad to maintain flag-men or alarm bells, where only trespassers would be expected to pass. *I. C. Ry. v. Oberhofer,* 76 Ill. App. 672.

TAXATION—PROPERTY SUBJECT—PUBLIC PROPERTY.—PEOPLE V. PURDY, 130 N. Y. SUPP., 1077.—*Held,* that property condemned by a municipality for public use was found to be unnecessary for the object for which it was condemned does not render it subject to taxation on the theory of municipal private ownership.

The general rule that property held by a municipality for public use is exempt from taxation is well established. *Wayland v. Middlesex Co.,* 4 Gray, Mass., 500; *Newark v. Verona,* 59 N. J. L., 94; *Dist. No.* 551 *v. Sacramento Co.,* 134 Cal., 477. But municipal property used in commercial capacity as a private corporation for its own profit is taxable. *Essex Co. v. Salem,* 153 Mass., 141; *Robb v. Philadelphia,* 12 Pa. Dist., 423. Furthermore, if a city purchases land partly for public uses and partly for private purposes, to derive gain therefrom, only that portion used for the public object is not taxable. *Newark v. Clinton,* 49 N. J. L., 370. But if property so used cannot be separated, the whole is subject to taxation. *Swanton v. Highgate,* 81 Vt., 152. Or if more land than necessary is bought, without any intention of using it for public purposes, it will not be exempt. *Town of Hartford v. Water Com'sr of City of Hartford,* 44 Conn., 360. However, land obtained for public use, even if not immediately necessary and not appropriated to such use, is held not subject to taxation. *Jersey City Water Com'rs v. Gaffney,* 34 N. J. L., 131. Under a general taxation law, there is an implied exemption in favor of property for public use. *Worcester County v. Worcester,* 116 Mass., 193. But this is not true in Illinois. *Sanitary Dist. v. Martin,* 173 Ill., 243. If there is an express exemption, then all the property of a municipality is exempt regardless of its use. *Newark v. Belleville,* 61 N. J. L., 455. The property must be owned by the city; a mere reversionary interest for instance, is not sufficient to support exemption from taxation. *Fall. v. Marysville,* 19 Cal., 391. Nor is it enough that the state may be ultimately entitled to share in the proceeds of the property. *Ryan v. Callatin Co.,* 14 Ill., 78. Where the property of the municipality is outside the city limits, some courts hold that it is not exempt. *Newport v. Unity,* 68 N. H., 587. Nevertheless, the better rule sustains the exemption. *Rochester v. Rush,* 80 N. Y., 302. Of course, a municipality having general powers of taxation may tax its own property. *Norfolk v. Perry Co.,* 108 Va., 28. So the State, in the absence of constitutional prohibition, may tax the property of its municipal corporations. *Public School Trustees v. Trenton,* 30 N. J. Eq., 667